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11
 12 **UNITED STATES DISTRICT COURT**

13 **NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION**

14
 15 *In re Capacitors Antitrust Litigation*

CASE NO. 3:14-CV-03264-JD

16 THIS DOCUMENT RELATES TO ALL
 17 DIRECT PURCHASERS CLASS ACTIONS

18
 19 *In Home Tech Solutions, Inc. v. Panasonic Corporation, et al.*

CASE NO. 3:14-cv-04514-EDL

20 **CLASS ACTION**

21 **NOTICE OF MOTION AND MOTION**
 22 **FOR APPOINTMENT OF PEARSON,**
 23 **SIMON & WARSHAW, LLP AND**
 24 **LOCKRIDGE GRINDAL NAUEN P.L.L.P.**
AS INTERIM CO-LEAD CLASS
COUNSEL FOR DIRECT PURCHASER
PLAINTIFFS

25 Date: October 29, 2014
 26 Time: 9:30 a.m.
 Courtroom: 11
 Judge: Hon. James Donato

NOTICE OF MOTION AND MOTION

PLEASE TAKE NOTICE that on October 29, 2014, at 9:30 a.m. or as soon thereafter as the matter may be heard before the Honorable James Donato of the United States District Court, Northern District of California, San Francisco Division, located at 450 Golden Gate Avenue, San Francisco, California, Courtroom 11, 19th Floor, the law firms of Pearson, Simon & Warshaw, LLP and Lockridge Grindal Nauen P.L.L.P. will and hereby do move the Court, pursuant to Federal Rule of Civil Procedure 23(g), for an order appointing them as interim co-lead class counsel for the direct purchaser plaintiffs in this case.

This motion is based on this Notice of Motion and Motion, the accompanying Memorandum of Points and Authorities, the declarations in support thereof, the Stipulation and [Proposed] Order re Shortening Time to Hear Motion filed herewith, the pleadings and papers on file in this action, and any such argument or other matters as the Court may consider at or prior to the hearing on this Motion.

DATED: October 15, 2014

By: /s/ Bruce L. Simon
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DATED: October 15, 2014

By: /s/ W. Joseph Bruckner
W. JOSEPH BRUCKNER

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and Proposed Interim Co-Lead Class Counsel for
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TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION	1
II. PROCEDURAL HISTORY	2
III. ARGUMENT	3
A. PSW and LGN Have Conducted Significant Research and Analysis in Identifying and Investigating The Claims Asserted in the Complaint.	4
B. PSW and LGN Have Significant Experience in Handling Class Actions, Including Complex Antitrust Cases	6
1. Pearson, Simon & Warshaw, LLP	6
2. Lockridge Grindal Nauen P.L.L.P.....	9
C. The Proposed Lead Firms Have and Will Commit the Necessary Resources to Successfully Prosecute this Class Action.....	13
D. The Proposed Interim Co-Lead Class Counsel Are Able to Work Cooperatively with Others in this Matter.	14
IV. CONCLUSION	14

TABLE OF AUTHORITIES**Page(s)****CASES**

<i>Coleman v. General Motors Acceptance Corp.</i> , 220 F.R.D. 64 (M.D. Tenn. 2004).....	3
<i>Donaldson v. Pharmacia Pension Plan</i> , 2006 WL 1308582 (S.D. Ill. May 10, 2006)	3
<i>In re Air Cargo Shipping Servs. Antitrust Litig.</i> , 240 F.R.D. 56 (E.D.N.Y. 2006)	3, 4
<i>In re Cal. Title Ins. Antitrust Litig.</i> , 2008 WL 4820752 (N.D. Cal. Nov. 3, 2008).....	4
<i>Medlock v. Taco Bell Corp.</i> , 2009 WL 1444343 (E.D. Cal. May 19, 2009).....	5
<i>Minn-Chem, Inc. v. Agrium, Inc.</i> , 683 F.3d 845 (7th Cir. 2012).....	7
<i>Nowak v. Ford Motor Co.</i> , 240 F.R.D. 355 (E.D. Mich. 2006).....	5
<i>Paraggua v. LinkedIn Corp.</i> , 2012 WL 3763889 (N.D. Cal. Aug. 29, 2012).....	4

STATUTES

15 U.S.C. § 6a	7
Fed. R. Civ. P. 23	passim

OTHER AUTHORITIES

MANUAL FOR COMPLEX LITIGATION (FOURTH) (2004)	3
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I. INTRODUCTION

Before class certification occurs, Federal Rule of Civil Procedure 23(g) allows a court to appoint interim class counsel for a putative class. The inquiry focuses on appointing a leadership team that will diligently and efficiently represent the interests of the class. The factors involved in the decision include the proposed counsel's (1) investigative work, (2) experience in handling class actions and similar types of complex claims, (3) knowledge of the applicable law, and (4) resources to be committed. *See* Fed. R. Civ. P. 23(g)(1).

The two law firms of Pearson, Simon & Warshaw, LLP ("PSW") and Lockridge Grindal Nauen P.L.L.P. ("LGN") exemplify all of these qualities, and should be appointed interim co-lead class counsel for the direct purchaser plaintiffs. *First*, since early April 2014, PSW and LGN have thoroughly investigated and analyzed Defendants' anticompetitive practices and agreements. Together with experienced consultants, they performed economic analyses of the defendants' unlawful conduct and reviewed detailed industry reports. As their investigation showed there is a plausible basis to allege a price-fixing conspiracy, PSW and LGN drafted and revised the detailed complaint based on their own original work product. *Second*, PSW and LGN are nationally recognized for their experience in successfully prosecuting large class action lawsuits, and the firms' attorneys possess extensive knowledge of antitrust law. *Third*, PSW and LGN each possess a proven track record in prosecuting large-scale class actions, and are ready, willing, and able to devote all resources necessary to this lawsuit. *Fourth*, PSW and LGN will lead this case with an inclusive style, seeking insight and participation from all Plaintiffs' counsel. In fact, five highly-qualified firms that, in their own right, have the credentials to seek appointment as lead counsel support this proposed two-firm leadership structure.

PSW and LGN recognize that a committee of four firms has filed a competing motion for appointment of interim co-lead class counsel. PSW and LGN do not question the experience of those four firms, but submit that prosecuting this case with four firms (all of whom come from essentially the same group) will likely result in inefficiencies and increase costs. In addition, under the four firm approach, essentially every case in the proposed four firm-committee structure would get a leadership position. Assigning two firms to lead this litigation—especially two firms

1 with the complex class action experience of PSW and LGN—will encourage a more stream-lined
2 approach, and, ultimately, yield a better result for the class.

3 PSW and LGN are ideally suited to be appointed as interim co-lead class counsel for the
4 direct purchaser plaintiffs. Plaintiff¹ respectfully requests that this Court appoint these two firms
5 in that role.

6 **II. PROCEDURAL HISTORY**

7 The first direct purchaser class action complaint in this consolidated antitrust action was
8 filed on July 18, 2014. (*See* ECF No. 1.) Four other direct purchaser complaints have since been
9 filed.² All five direct purchaser class action cases and two indirect purchaser class action cases³
10 are subject to the Court’s Consolidation and Case Management Order. (ECF No. 133.) The
11 complaints allege that the Defendants engaged in anticompetitive conduct by fixing the prices for
12 capacitors (electronic components that store, filter, and regulate electrical energy and current
13 flow).

14 On September 16, 2014, counsel from four law firms filed a joint motion to be appointed
15 as interim co-lead class counsel. (*See* ECF No. 102.) The four attorneys seeking appointment are
16 (1) Joseph R. Saveri of the Joseph Saveri Law Firm, (2) Solomon B. Cera of Gold Bennett Cera &
17 Sidener LLP, (3) Howard J. Sedran of Levin Fishbein Sedran & Berman, and (4) Kit A. Pierson of
18 Cohen Milstein Sellers & Toll PLLC. (ECF No. 102.) Those firms appear to operate as a group.
19 In particular, Mr. Saveri is counsel in three of the direct purchaser complaints—two with Mr. Cera

20 _____
21 ¹ The term “Plaintiff” refers to In Home Tech Solutions, Inc.—the plaintiff in Case No. 3:14-cv-
22 04514. Plaintiff files this motion in both *In Re Capacitors Litigation* and *In Home Tech Solutions,*
23 *Inc.*, because at the time of this filing, the latter action has yet to be consolidated with the master
case on this Court’s docket.

24 ² The direct purchaser class actions are: (1) *Chip-Tech, Ltd. v. Panasonic Corp., et al.*, Case
25 No. 3:14-cv-03264; (2) *Dependable Component Supply Corp. v. Panasonic Corporation, et al.*,
26 Case No. 3:14-cv-03300; (3) *Schuten Electronics Corp. v. AVX Corporation, et al.*, Case No. 3:14-
cv-03698; (4) *eIQ Energy, Inc. v. AVX Corporation, et al.*, Case No. 3:14-cv-04123; and (5) *In*
Home Tech Solutions, Inc. v. Panasonic Corporation, et al., Case No. 3:14-cv-04514.

27 ³ The indirect purchaser class actions are: (1) *Ellis, et al. v. Panasonic Corporation, et al.*, Case
28 No. 3:14-cv-03815; and (2) *Bennett v. Panasonic Corporation, et al.*, Case No. 3:14-cv-04403.

1 (*Chip-Tech* and *Dependable*) and one with Mr. Sedran (*eIQ Energy*).

2 On October 2, 2014, the court issued a Consolidation and Case Management Order, which
 3 states that the already-filed motion for appointment of interim co-lead class counsel would be
 4 heard on October 29, 2014 at 9:30 a.m. (ECF No. 133.) In an effort to ensure that the instant
 5 motion is heard at the same time as the earlier-filed motion, PSW and LGN have filed,
 6 concurrently herewith, a Stipulation and [Proposed] Order re Shortening Time to Hear Motion for
 7 Appointment of Pearson, Simon & Warshaw, LLP and Lockridge Grindal Nauen P.L.L.P. as
 8 Interim Co-Lead Class Counsel for Direct Purchaser Plaintiffs.

9 **III. ARGUMENT**

10 Rule 23 provides that a court “may designate interim counsel to act on behalf of the
 11 putative class before determining whether to certify the action as a class action.” Fed. R. Civ. P.
 12 23(g)(3). The goal is to determine who best will represent the interests of the class, and who best
 13 will be able to accomplish the goals of efficiency and economy in doing so. *See Coleman v.*
 14 *General Motors Acceptance Corp.*, 220 F.R.D. 64, 100 (M.D. Tenn. 2004); *see also* MANUAL FOR
 15 COMPLEX LITIGATION (FOURTH) § 10.221 (2004) (“MANUAL”). Where, as here, multiple cases are
 16 pending, “appointment of interim counsel is necessary to protect the interests of class members.”
 17 *Donaldson v. Pharmacia Pension Plan*, 2006 WL 1308582, at *1 (S.D. Ill. May 10, 2006); *see*
 18 *also In re Air Cargo Shipping Servs. Antitrust Litig.*, 240 F.R.D. 56, 57 (E.D.N.Y. 2006).

19 In complex antitrust matters such as this, appointing seasoned lead counsel is one of the
 20 district court’s key organizational tools. MANUAL §§ 10.224, 21.272. The “designation of interim
 21 [class] counsel clarifies responsibility for protecting the interests of the class during
 22 precertification activities, such as making and responding to motions, conducting any necessary
 23 discovery, moving for class certification, and negotiating settlement.” *Id.* § 21.11. Because lead
 24 counsel is charged with the ultimate responsibility of acting on behalf of the class throughout the
 25 entire litigation, the Court must appoint lead counsel who are fully capable and qualified to fairly
 26 and adequately represent the interests of the class. *See id.* §§ 10.22, 21.271, 21, 272; *see also* Fed.
 27 R. Civ. Proc. 23(g)(2) (noting that “the court must appoint the applicant best able to represent the
 28 interests of the class” if more than one qualified applicant seeks to be appointed class counsel).

Courts usually consider the factors listed within Rule 23(g)(1) when appointing interim class counsel. *See, e.g., In re Cal. Title Ins. Antitrust Litig.*, 2008 WL 4820752, at *1 (N.D. Cal. Nov. 3, 2008) (“When appointing interim class counsel, a court must find that the applicant is adequate under [Rule 23(g)(1)(A)].”); *In re Air Cargo Shipping Servs., supra*, 240 F.R.D. at 57 (“[I]t appears to be generally accepted that the considerations set out in [Rule 23(g)(1)(A)], which governs appointment of class counsel once a class is certified, apply equally to the designation of interim class counsel before certification.”); *Paraggua v. LinkedIn Corp.*, 2012 WL 3763889, at *1 (N.D. Cal. Aug. 29, 2012) (same). These factors examine the proposed counsel’s (1) investigative work; (2) experience in handling class actions and similar types of complex claims; (3) knowledge of the applicable law; and (4) resources to be committed. Fed R. Civ. Proc. 23(g)(1)(A). All of these factors are pertinent, but no one factor alone is determinative, and the Court may also assess other matters “pertinent to counsel’s ability to fairly and adequately represent the interests of the class.” Fed R. Civ. P. 23(g)(1)(B); *see also* Fed R. Civ. P. 23 Advisory Committee Notes to the 2003 Amendments.

As demonstrated below, PSW and LGN more than satisfy all of the relevant criteria.

A. PSW and LGN Have Conducted Significant Research and Analysis in Identifying and Investigating The Claims Asserted in the Complaint.

PSW and LGN began investigating potential antitrust violations by defendants over six months ago—in early April 2014. (Simon Decl., ¶ 4; Bruckner Decl., ¶ 3.) As explained in more detail in the Declarations of Bruce L. Simon and W. Joseph Bruckner filed concurrently herewith, PSW and LGN retained the services of experienced consultants to perform an economic analysis of the capacitors market, including the markets for the different capacitor types (*e.g.*, aluminum electrolytic capacitors, tantalum capacitors, and supercapacitors), as well as to analyze capacitor demand, production, and pricing. (Simon Decl., ¶ 5; Bruckner Decl., ¶ 3.)

After discussion with these experienced consultants—and after incurring significant costs and attorney time—PSW and LGN concluded that there is a basis to allege that the Defendants had obtained and maintained their control over the capacitors market through anticompetitive practices and agreements. (Simon Decl., ¶ 6; Bruckner Decl., ¶ 4.) The detailed complaint that

1 PSW, LGN, and their co-counsel filed on October 8, 2014 in the *In Home Tech Solutions, Inc.*
 2 case reflects this extensive investigation. Their Complaint is the original work product of PSW,
 3 LGN, and their co-counsel, and does not copy any other complaint filed in this consolidated
 4 litigation. (Simon Decl., ¶ 9.) That other firms filed their complaints first should have little
 5 bearing on the appointment of interim co-lead class counsel. *See Medlock v. Taco Bell Corp.*, 2009
 6 WL 1444343, at *6 (E.D. Cal. May 19, 2009) (“The first attorney to file is not entitled to special
 7 consideration for appointment as lead counsel simply by winning the case [sic] to the
 8 courthouse.”) (internal quotation marks and citation omitted); *Nowak v. Ford Motor Co.*, 240
 9 F.R.D. 355, 365 (E.D. Mich. 2006) (“Whether someone was ‘first to file’ by itself has little to do
 10 with who is the best qualified to lead the case, and does not satisfy the requirements of Rule
 11 23(g).”).

12 PSW and LGN have reviewed the motion for appointment of interim co-lead class counsel
 13 filed by the committee of four firms. As explained above, PSW and LGN do not question the
 14 experience of these four firms. Similarly, PSW and LGN do not dispute that these four firms
 15 spent time and incurred costs in investigating Defendants’ anticompetitive conduct.

16 Nonetheless, PSW and LGN strongly believe that they should be appointed as interim co-
 17 lead class counsel for all Direct Purchaser Plaintiffs because a committee of four is not efficient in
 18 this particular case. Several courts in this District routinely appoint two firms to spearhead
 19 complex class action litigation. *See, e.g., Senne, et al. v. Office of the Commissioner of Baseball,*
 20 *et al.*, N.D. Cal. Case No. 14-cv-00608, ECF No. 236 (N.D. Cal. Oct. 10, 2014) (Seeborg, J.)
 21 (appointing two firms to serve as interim co-lead class counsel); *In re Carrier IQ Consumer*
 22 *Privacy Litigation*, MDL No. 2330, ECF No. 100 (N.D. Cal. July 12, 2012) (Chen, J.) (appointing
 23 two firms to serve as interim lead counsel); *In re Transpacific Passenger Air Transportation*
 24 *Antitrust Litig.*, MDL No. 1913, ECF No. 130 (N.D. Cal. Mar. 28, 2008) (Breyer, J.) (appointing
 25 two firms to serve as interim class counsel for the putative class); *In re TFT-LCD (Flat Panel)*
 26 *Antitrust Litig.*, MDL No. 1827, ECF No. 224 (N.D. Cal. July 13, 2007) (appointing two firms to
 27 serve as interim lead counsel for indirect purchaser cases and two firms to serve as interim lead
 28 counsel for direct purchaser cases) (Illston, J.).

1 There are only a total of five direct purchaser cases filed. Having four firms (all of whom
 2 come from essentially the same group) lead the case is too much. Essentially every case in the
 3 proposed four firm-committee structure gets a leadership position. Prosecuting this case with four
 4 different law firms “managing” this litigation will likely result in inefficiencies and increase costs.
 5 Assigning two firms to lead this litigation—especially two firms with the complex class action
 6 experience of PSW and LGN—will encourage a more stream-lined approach, and, ultimately,
 7 yield a better result for the class.

8 **B. PSW and LGN Have Significant Experience in Handling Class Actions, Including**
 9 **Complex Antitrust Cases**

10 As the following discussion and the attachments to the Declarations of Bruce L. Simon and
 11 W. Joseph Bruckner demonstrate, PSW and LGN have substantial experience handling complex
 12 class actions, and they are highly knowledgeable regarding the applicable antitrust law.

13 **1. Pearson, Simon & Warshaw, LLP**

14 PSW is a civil litigation firm that specializes in class actions, with offices in San Francisco
 15 and Los Angeles. (Simon Decl., Exh. B.) PSW handles national and multi-national class actions
 16 that present cutting-edge issues in both substantive and procedural areas. (Simon Decl., Exh. B.)
 17 The firm’s attorneys have expertise in litigating difficult and large cases in an efficient and cost-
 18 effective manner. (Simon Decl., Exh. B.) Recognized as national leaders in the field of antitrust
 19 litigation, they have obtained hundreds of millions of dollars in settlements and verdicts on behalf
 20 of their clients. (*See generally* Simon Decl., Exh. B.) Attorneys at PSW served as co-lead counsel
 21 in such prominent cases as *In re TFT-LCD (Flat Panel) Antitrust Litigation* (N.D. Cal. MDL No.
 22 1827) (“*TFT-LCD*”) and *In re Potash Antitrust Litigation (II)* (N.D. Ill. MDL No. 1996)
 23 (“*Potash*”), and are presently co-lead counsel in various other notable complex antitrust and class-
 24 actions including *In re Lithium Ion Batteries Antitrust Litigation* (N.D. Cal. MDL No. 2420), *In re*
 25 *Credit Default Swaps Antitrust Litigation* (S.D.N.Y. MDL No. 2476), *In re National Collegiate*
 26 *Athletic Association Athletic Grant-in-Aid Cap Antitrust Litigation* (N.D. Cal. MDL No. 2451),
 27 and *In re: Keurig Green Mountain Single-Serve Coffee Antitrust Litigation* (S.D.N.Y. MDL No.
 28 2542). (Simon Decl., ¶¶ 12-17.)

1 The attorneys who will be primarily responsible for litigating this case are Bruce L. Simon
2 and Aaron M. Sheanin, as well as Benjamin E. Shiftan, Michael H. Pearson, and other attorneys as
3 required.

4 **Bruce L. Simon**

5 Mr. Simon specializes in complex cases involving antitrust, securities, and consumer
6 protection laws. (*See* Simon Decl., ¶ 20.) Mr. Simon has been recognized for his service as co-
7 lead counsel and trial counsel for the direct purchaser plaintiffs in *TFT-LCD*. (Simon Decl., ¶ 10.)
8 After reaching settlements with several defendants totaling over \$405 million, Mr. Simon and his
9 trial team tried the case to an \$87 million dollar verdict (before trebling) against Toshiba. (Simon
10 Decl., Exh. B.) Mr. Simon served as co-lead trial counsel, successfully marshaled numerous
11 witnesses, and presented the opening statement. (Simon Decl., Exh. B.) Another \$68 million was
12 recovered for class members through settlements with Toshiba after trial and with another
13 defendant on the eve of trial, for a total recovery of \$473 million for the direct purchaser class.
14 (*See generally* Simon Decl., Exh. B.) In 2013, *California Lawyer Magazine* awarded Mr. Simon a
15 California Lawyer of the Year Award for his work in the *TFT-LCD* case. (Simon Decl., ¶ 10.)
16 The verdict in that case was cited by the *Daily Journal* as one of the top 10 verdicts of the year.
17 (Simon Decl., ¶ 10.)

18 Mr. Simon served as co-lead counsel for the direct purchaser plaintiffs in *Potash*. (Simon
19 Decl., ¶ 13.) There, Mr. Simon successfully argued an appeal of the district court's opinion
20 denying the defendants' motions to dismiss for lack of subject matter jurisdiction under the
21 Foreign Trade Antitrust Improvements Act⁴ ("FTAIA") before the United States Court of Appeals
22 for the Seventh Circuit. (*See* Simon Decl., ¶ 13, Exh. B.) In *Minn-Chem, Inc. v. Agrium, Inc.*,
23 683 F.3d 845 (7th Cir. 2012), the Seventh Circuit, sitting *en banc*, took a broad view of the ability
24 of the federal courts to hear antitrust cases concerning alleged foreign cartel activity that plaintiffs
25 contend has effects in the United States. This is a significant decision pertaining to an issue that

26 _____
27 ⁴ 15 U.S.C. § 6a.

1 arises in most antitrust cases involving international cartels. (Simon Decl., ¶ 13.) Subsequently,
 2 the direct purchasers reached settlements totaling \$90 million. (Simon Decl., Exh. B.)

3 In 2013, Mr. Simon was appointed as interim co-lead counsel for direct purchaser plaintiffs
 4 in *In re Lithium Ion Batteries Antitrust Litigation* (N.D. Cal. MDL No. 2420) (“*Batteries*”), a
 5 multidistrict case arising from the price-fixing of lithium ion batteries. (Simon Decl., ¶ 14.) The
 6 case, pending before the Honorable Yvonne Gonzalez Rogers, involves allegations of collusive
 7 activity by a cartel made up of the world’s largest manufacturers of lithium ion batteries, which
 8 are used in everything from cellular phones to cameras, laptops and tablet computers. (Simon
 9 Decl., ¶ 14.) Certain defendants in *Batteries* are named defendants in this case as well. Mr.
 10 Simon successfully argued before the JPML for consolidation of the cases in the Northern District
 11 of California. (Simon Decl., ¶ 14.) On October 2, 2014, Judge Gonzalez Rogers issued an
 12 omnibus order denying motions to dismiss the direct purchasers’ Second Consolidated Amended
 13 Complaint almost in their entirety. (N.D. Cal. MDL No. 2420, ECF No. 512.)

14 Mr. Simon serves as co-lead counsel in *In re Credit Default Swaps Antitrust Litigation*
 15 (S.D.N.Y. MDL No. 2476), a class action filed on behalf of all purchasers and sellers of Credit
 16 Default Swaps (“CDS”) against thirteen of the world’s largest banks. (Simon Decl., ¶ 15.) Mr.
 17 Simon represents the Los Angeles County Employees’ Retirement Association. (Simon Decl., ¶
 18 15.) The lawsuit alleges that the banks along with other defendants who control the market
 19 infrastructure for CDS trading have conspired for years to restrain the efficient trading of CDS,
 20 thereby inflating the cost to trade CDS and harming institutional investors such as pension funds,
 21 mutual funds, and insurance companies who use CDS to hedge credit risks on their fixed income
 22 portfolios. (Simon Decl., ¶ 15, Exh. B.) On September 4, 2014, the Honorable Denise L. Cote
 23 denied motions to dismiss plaintiffs’ claims in violation of Section 1 of the Sherman Act and for
 24 unjust enrichment. (S.D.N.Y. MDL No. 2476, ECF No. 321.)

25 Mr. Simon was recently appointed interim co-lead counsel in *In re Carrier IQ Consumer*
 26 *Privacy Litigation* (N.D. Cal. MDL No. 2330) by the Honorable Edward Chen. (Simon Decl., ¶
 27 19) Moreover, PSW is currently serving as interim co-lead counsel in several other significant
 28 class actions, including *In re National Collegiate Athletic Association Athletic Grant-in-Aid Cap*

1 *Antitrust Litigation* (N.D. Cal. MDL No. 2451), *In re Keurig Green Mountain Single-Serve Coffee*
 2 *Antitrust Litigation* (S.D.N.Y. MDL No. 2542), and *Senne, et al. v. Office of the Commissioner of*
 3 *Baseball, et al.* (N.D. Cal. Case No. 14-cv-00608). (Simon Decl., ¶¶ 16-18.)

4 **Aaron M. Sheanin**

5 Mr. Sheanin has extensive experience in complex litigation matters in federal and state
 6 courts, including the prosecution of antitrust, consumer, and securities class actions. (Simon
 7 Decl., ¶ 25.) Mr. Sheanin was actively involved in all aspects of *TFT-LCD*, and was an integral
 8 member of the trial team. (Simon Decl., ¶ 25.) For his work on that case, Mr. Sheanin was
 9 nominated by the Consumer Attorneys of California as a finalist for Consumer Attorney of the
 10 Year. (Simon Decl., ¶ 25.) Mr. Sheanin is presently litigating on behalf of direct purchaser
 11 plaintiffs in the *Batteries* and *Credit Default Swaps* cases. (Simon Decl., ¶ 25.)

12 Previously, Mr. Sheanin served as co-lead counsel in *In re American Express Financial*
 13 *Advisors Securities Litigation* (S.D.N.Y. Case No. 04-1773) (\$100 million settlement), as co-lead
 14 counsel on behalf of lead plaintiff the Kansas Public Employees' Retirement System in the
 15 securities class action *Scheiner v. i2 Technologies* (N.D. Tex. Case No. 01-CV-418-H) (\$84.85
 16 million in settlements), and as co-chair of the discovery committee in *In re Natural Gas Antitrust*
 17 *Cases* (D. Nev. MDL No. 1566) (\$160 million in settlements). (Simon Decl., ¶ 26.) He is a
 18 member of the Executive Committee of the Antitrust and Unfair Competition Section of the
 19 California State Bar. (Simon Decl., ¶ 26.)

20 **2. Lockridge Grindal Nauen P.L.L.P.**

21 For over 30 years LGN has prosecuted antitrust cases on behalf of large and small
 22 businesses injured by price-fixing and other violations of the antitrust laws. (Bruckner Decl., Exh.
 23 A.) LGN also practices in securities, environmental, employment, health care, commercial,
 24 intellectual property and telecommunications law. (Bruckner Decl., ¶ 7.) It has particular
 25 expertise in complex litigation, including federal multidistrict litigation. (Bruckner Decl., ¶ 7.)
 26 The firm's attorneys are skilled in pursuing and managing large complicated cases efficiently and
 27 cost-effectively. (Bruckner Decl., ¶ 7.) In the last ten years alone, LGN and its co-counsel have
 28 recovered more than \$2 billion for their clients and class members in antitrust cases involving

1 national and global price-fixing schemes. (Bruckner Decl., Exh. A.) Attorneys at LGN have
 2 served as Plaintiffs' Co-Lead Counsel in notable cases such as *In re Potash Antitrust Litigation*
 3 *(II) – Minn-Chem, Inc. v. Agrium Inc.* (N.D. Ill. MDL No. 1996), and *In re Flat Glass Antitrust*
 4 *Litigation (II)* (W.D. Pa. MDL No. 1942) and are currently serving as Plaintiffs' Co-Lead Counsel
 5 in the *Freight Forwarders Antitrust Litigation (Precision Associates, Inc., et al. v. Panalpina*
 6 *World Transport (Holding) Ltd. et al.)* (E.D.N.Y. Case No. 08-cv-00042) and *In re Wholesale*
 7 *Grocery Products Antitrust Litigation* (D. Minn. MDL No. 2090). (Bruckner Decl., ¶¶ 9-12.) LGN
 8 is also extensively involved as plaintiffs' counsel in *Kleen Products LLC, et al. v. Packaging*
 9 *Corp. of America, et al.*, (N.D. Ill. Case No. 10-cv-05711). (Bruckner Decl., ¶ 10.)

10 LGN has played a material role representing plaintiffs in several electronics-related
 11 antitrust cases in this District: *In re Lithium Ion Batteries Antitrust Litigation* (N.D. Cal. MDL No.
 12 2420); *In re TFT-LCD (Flat Panel) Antitrust Litigation* (N.D. Cal. MDL No. 1827); *In re Cathode*
 13 *Ray Tubes (CRT) Antitrust Litigation* (N.D. Cal. MDL No. 1917); *In re Dynamic Random Access*
 14 *Memory (DRAM) Antitrust Litigation* (N.D. Cal. MDL No. 1486); *In re Static Random Access*
 15 *Memory (SRAM) Antitrust Litigation* (N.D. Cal. MDL No. 1819). (Bruckner Decl., ¶ 15.) Many of
 16 these cases involve the same or related defendants as in this case, and allege similar methods of
 17 establishing and enforcing an anticompetitive conspiracy. (Bruckner Decl., ¶ 15.) The attorneys
 18 who will be primarily responsible for litigating this case are W. Joseph Bruckner, Heidi Silton,
 19 Elizabeth Odette, and other attorneys as required.

20 **W. Joseph Bruckner**

21 Mr. Bruckner specializes in representing plaintiffs in antitrust class actions and other
 22 complex litigation nationwide. (Bruckner Decl., ¶ 8.) Mr. Bruckner currently serves as Plaintiffs'
 23 Co-Lead Counsel in the *Freight Forwarders Antitrust Litigation (Precision Associates, Inc., et al.*
 24 *v. Panalpina World Transport (Holding) Ltd. et al.)* (E.D.N.Y. Case No. 08-cv-00042). (Bruckner
 25 Decl., ¶ 9.) *Freight Forwarders* alleges a series of global cartels to fix and impose surcharges and
 26 rate increases on U.S. shippers for freight forwarding services, and involves major multinational
 27 corporations in the United States and every other part of the globe. (Bruckner Decl., ¶ 9.) To date
 28 Mr. Bruckner and his co-counsel have achieved settlements of over \$178 million for the class from

1 sixteen Defendant groups. (Bruckner Decl., ¶ 9.)

2 With Mr. Simon, Mr. Bruckner recently served as co-lead counsel for the direct purchaser
3 plaintiffs in *In re Potash* resulting in settlements of \$90 million for the direct purchaser class.
4 (Bruckner Decl., ¶ 11.) As described in Mr. Simon's section above, the ground-breaking decision
5 from the *en banc* Court of the Appeals for the Seventh Circuit clarified the proper application of
6 the FTAIA, and is a significant victory for U.S. businesses injured by global cartel behavior.

7 Mr. Bruckner also served in leadership positions in, among other cases: *In re Flat Glass*
8 *Antitrust Litigation (II)* (W.D. Pa. MDL No. 1942), co-lead counsel, where \$22 million in
9 settlements were reached; *In re Urethane Antitrust Litigation (Polyester Polyols)* (D. Kan., MDL
10 No. 1616) co-lead counsel, recovering \$33 million for the class; *In re Pressure Sensitive*
11 *Labelstock Antitrust Litigation* (M.D. Pa. MDL No. 1556), co-lead counsel, recovering \$45
12 million for the class; *In re MSG Antitrust Litigation* (D. Minn. MDL No. 1328), co-lead counsel,
13 recovering \$123 million for the class; *In re Polypropylene Carpet Antitrust Litigation* (N.D. Ga.
14 MDL No. 1075), co-lead counsel, recovering \$50 million for the class; and *In re Linerboard*
15 *Antitrust Litig.* (E.D. Pa. MDL No. 1261), as one of a five-person Executive Committee in which
16 more than \$202 million was recovered for the class. (Bruckner Decl., ¶ 12.)

17 Mr. Bruckner and his firm have been appointed plaintiffs' co-lead counsel *In re Wholesale*
18 *Grocery Products Antitrust Litigation* (D. Minn. MDL No. 2090), alleging a geographic and
19 customer allocation agreement in the wholesale grocery supply market. (Bruckner Decl., ¶ 10.) In
20 addition, they are extensively involved in *Kleen Products LLC, et al. v. Packaging Corp. of*
21 *America, et al.* (N.D. Ill. Case No. 10-cv-05711) involving allegations of collusive supply
22 restrictions and price-fixing in the containerboard (corrugated paper) market. (Bruckner Decl., ¶
23 10.)

24 Mr. Bruckner is regularly recognized as a Minnesota "Super Lawyer" by the Minnesota
25 Journal of Law and Politics, and has served as Chair for the Minnesota State Bar Association
26 Antitrust Law Section. (Bruckner Decl., ¶ 16.) He frequently speaks and presents at programs
27 and seminars nationwide, and has co-authored two publications on the private enforcement of
28 antitrust laws in the United States. (See Bruckner Decl., ¶ 16.)

Heidi Silton

Heidi Silton has nearly two decades of litigation experience, currently serving as the Chair of the Minnesota State Bar Association's Antitrust Section and regularly named one of Minnesota's top 100 Women Lawyers by a peer review list of leading Minnesota lawyers. (Bruckner Decl., ¶ 8.) Ms. Silton has been named as one of Minnesota's "Forty Under 40" business and community leaders. (Bruckner Decl., Exh. A.) She is one of just a few attorneys included in this select group of business leaders. (Bruckner Decl., Exh. A.)

Ms. Silton has worked on a number of complex and class action antitrust matters in which the firm has had a leading or other significant role, including: *In re Flat Glass (II) Antitrust Litig.* (W.D. Pa. Case No. 08-mc-180), (Plaintiffs' Co-Lead Counsel); *Freight Forwarders Antitrust Litigation (Precision Associates, Inc., et al. v. Panalpina World Transport (Holding) Ltd. et al.)* (E.D.N.Y. Case No. 08-cv-00042)) (Plaintiffs' Co-Lead Counsel); *In re Urethane Antitrust Litigation (Polyester Polyols)* (D. Kan. MDL No. 1616) (Plaintiffs' Co-lead Counsel); and *In re Dynamic Random Access Memory (DRAM) Antitrust Litig.* (N.D. Cal. Case No. 02-cv-1486). (Bruckner Decl., Exh. A.)

Elizabeth Odette

Elizabeth Odette also has significant litigation experience. She was named an "Up and Coming Attorney" by Minnesota Lawyer Magazine in 2013. (Bruckner Decl., ¶ 8.) Ms. Odette is currently litigating on behalf of plaintiffs in *In re Wholesale Grocery Products Antitrust Litigation* (D. Minn. MDL No. 2090) and has or is currently contributing to a number of the other electronics cases venued in this District: *In re Cathode Ray Tube (CRT) Antitrust Litig.* (N.D. Cal. MDL No. 1917); *In re TFT-LCD (Flat Panel) Antitrust Litig.* (N.D. Cal. MDL No. 1827); *In re Lithium Ion Batteries Antitrust Litigation*, (N.D. Cal. MDL 2420); and *In re Static Random Access Memory (SRAM) Antitrust Litig.* (N.D. Cal. MDL No. 1819). (Bruckner Decl., Exh. A.)

Ms. Odette has actively participated on the trial team of more than a dozen bellwether trials remanded out of *In re Aredia and Zometa Products Liability Litigation*, (E.D. Tenn. Case No. 06-md-1760) with a majority resulting in plaintiffs' verdicts. (See Bruckner Decl., Exh. A.)

C. The Proposed Lead Firms Have and Will Commit the Necessary Resources to Successfully Prosecute this Class Action

PSW and LGN have demonstrated they are ready, willing, and able to commit the resources and time necessary to litigate a complex class action such as this.

PSW's work in *LCD* is instructive. In that case, PSW, along with co-lead counsel, managed discovery of roughly 8 million documents consisting of over 40 million pages, and oversaw as many as 136 document reviewers working concurrently. (Simon Decl., ¶ 12.) Approximately 1.5 million foreign language documents were identified, and nearly half were reviewed by foreign language reviewers. (Simon Decl., ¶ 12.) The direct purchaser class served 184 sets of discovery requests, responded to 75, and engaged in extensive discovery motion practice before a special master. (Simon Decl., ¶ 12.) Counsel took and defended more than 130 depositions: 50 in San Francisco, 40 elsewhere across the country, and 41 outside of the United States. (Simon Decl., ¶ 12.) In all, counsel incurred over \$11 million in costs and contributed over 250,000 hours of work on the case, prior to trial. (Simon Decl., ¶ 12.) The Court credited counsel's work as an "excellent result obtained for the Class" after more than five years of litigation. (Simon Decl., ¶ 12.) The Court noted that counsel did "an excellent job in this case of handling what has been a really enormous and cumbersome process." (Simon Decl., Exh. A.)

LGN's leadership in *Freight Forwarders* demonstrates the firm's expertise in managing complex class actions. In *Freight Forwarders*, LGN and other co-lead counsel have drafted and coordinated dozens of briefs in successfully overcoming multiple rounds of motions to dismiss plaintiffs' complaint; arranged the ongoing review of over 1.3 million documents; took more than 30 fact interviews to date and have embarked on depositions worldwide; and have negotiated settlements with more than a dozen defendants. (Bruckner Decl., ¶ 13.) LGN also collects and maintains monthly time and expense reports from all class counsel, and has developed a time and expense protocol to avoid unnecessary, unauthorized, or duplicative case work. (Bruckner Decl., ¶ 13.)

Similarly, in *Potash II*, LGN and PSW led the production of plaintiffs' discovery, the review of defendants' discovery, the coordination and taking of depositions, extensive and

1 successful briefing at the court of appeals, expert analysis and, ultimately, lengthy and successful
2 settlement negotiations with all defendants. (Bruckner Decl., ¶ 14.)

3 As these examples amply illustrate, PSW and LGN are well-equipped to lead this complex
4 litigation.

5 **D. The Proposed Interim Co-Lead Class Counsel Are Able to Work Cooperatively with**
6 **Others in this Matter.**

7 As explained above, the two firms proposed here believe they can provide the most fair
8 and adequate leadership structure for the class. That said, PSW and LGN each have an inclusive
9 management style and will seek the participation of the many other talented firms involved in this
10 litigation. This is evidenced by the number of highly-qualified firms that support the proposed
11 two-firm leadership structure: (1) Polsinelli PC; (2) Weinstein Kitchenoff & Asher LLC; (3)
12 Steyer Lowenthal Boodrookas Alvaraz & Smith LLP; (4) Criden & Love, P.A.; and (5) Gustafson
13 Gluek PLLC. These firms have considerable experience in prosecuting class actions and the
14 credentials to serve as lead counsel in their own right. However, each of these firms is supporting
15 the appointment of PSW and LGN as interim co-lead counsel, in recognition of the investigations
16 and work undertaken by these two firms. (Simon Decl., ¶ 29.) The endorsements of these
17 respected firms further support the appointment of PSW and LGN as interim co-lead class
18 counsel.

19 **IV. CONCLUSION**

20 For the foregoing reasons, Pearson, Simon & Warshaw, LLP and Lockridge Grinal Nauen
21 P.L.L.P. respectfully request appointment as interim co-lead class counsel for the Direct Purchaser
22 Plaintiffs.

23
24 DATED: October 15, 2014

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